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SENATE BILL 569

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Joseph J. Carraro

AN ACT

RELATING TO LAW ENFORCEMENT; REVISING THE DEFINITIONS FOR SEX OFFENDER AND SEX OFFENSE; LENGTHENING REGISTRATION PERIODS FOR SEX OFFENDERS; REQUIRING A SEX OFFENDER TO PROVIDE ADDITIONAL REGISTRATION INFORMATION; AMENDING SECTIONS OF THE SEX OFFENDER REGISTRATION AND NOTIFICATION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 29-11A-2 NMSA 1978 (being Laws 1995, Chapter 106, Section 2, as amended) is amended to read:

"29-11A-2. FINDINGS--PURPOSE. --

A. The legislature finds that:

(1) sex offenders pose a significant risk of recidivism; and

(2) the efforts of law enforcement agencies to protect their communities from sex offenders are impaired by

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1 the lack of information available concerning convicted sex
2 offenders who live within the agencies' jurisdictions.

3 B. The purpose of the Sex Offender Registration and
4 Notification Act is to assist law enforcement agencies' efforts
5 to protect their communities by:

6 (1) requiring sex offenders who are residents
7 of New Mexico to register with the county sheriff of the county
8 in which the sex offender resides;

9 (2) requiring sex offenders who are residents
10 in other states, but who are employed in New Mexico, [~~or who~~]
11 attend school in New Mexico or visit New Mexico for more than
12 twenty-four hours, to register with the county sheriff of the
13 county in which the sex offender works, [~~or~~] attends school or
14 visits;

15 (3) requiring the establishment of a central
16 registry for sex offenders; and

17 (4) providing public access to information
18 regarding certain registered sex offenders. "

19 Section 2. Section 29-11A-3 NMSA 1978 (being Laws 1995,
20 Chapter 106, Section 3, as amended) is amended to read:

21 "29-11A-3. DEFINITIONS.--As used in the Sex Offender
22 Registration and Notification Act:

23 A. "sex offender" means a person [~~eighteen years of~~
24 ~~age or older~~] who:

25 (1) is a resident of New Mexico who is

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1 convicted of a sex offense in New Mexico;

2 (2) changes his residence to New Mexico, when
3 that person has been convicted of a sex offense in another
4 state pursuant to state, federal or military law;

5 (3) is a resident of New Mexico who is
6 convicted of a sex offense pursuant to federal or military law;
7 or

8 (4) is a resident of another state and who has
9 been convicted of a sex offense pursuant to state, federal or
10 military law, but who is:

11 (a) employed full time or part time in
12 New Mexico for a period of time exceeding fourteen days or for
13 an aggregate period of time exceeding thirty days during any
14 calendar year; [~~or~~]

15 (b) enrolled on a full-time or part-time
16 basis in a private or public school in New Mexico, including a
17 secondary school, a trade school, a professional institution or
18 an institution of higher education; [~~and~~] or

19 (c) a visitor from another state and
20 will be in New Mexico for more than twenty-four hours; and

21 B. "sex offense" means:

22 (1) criminal sexual penetration in the first,
23 second, third or fourth degree, as provided in Section 30-9-11
24 NMSA 1978;

25 (2) criminal sexual contact in the fourth

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1 degree, as provided in Section 30-9-12 NMSA 1978;

2 (3) criminal sexual contact of a minor in the
3 third or fourth degree, as provided in Section 30-9-13 NMSA
4 1978;

5 (4) sexual exploitation of children, as
6 provided in [~~Subsection A, B or C of~~] Section 30-6A-3 NMSA
7 1978;

8 (5) sexual exploitation of children by
9 prostitution, as provided in Section 30-6A-4 NMSA 1978;

10 (6) kidnapping, as provided in Section
11 30-4-1 NMSA 1978, when the victim is less than eighteen years
12 of age and the offender is not a parent of the victim;

13 (7) false imprisonment, as provided in Section
14 30-4-3 NMSA 1978, when the victim is less than eighteen years
15 of age and the offender is not a parent of the victim;

16 (8) aggravated indecent exposure, as provided
17 in Section 30-9-14.3 NMSA 1978;

18 (9) enticement of a child, as provided in
19 Section 30-9-1 NMSA 1978;

20 [~~(8)~~] (10) solicitation to commit criminal
21 sexual contact of a minor in the third or fourth degree, as
22 provided in Sections 30-9-13 and 30-28-3 NMSA 1978; or

23 [~~(9)~~] (11) attempt to commit any of the sex
24 offenses set forth in Paragraphs (1) through [~~(7)~~] (8) of this
25 subsection, as provided in Section 30-28-1 NMSA 1978. "

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1 Section 3. Section 29-11A-4 NMSA 1978 (being Laws 1995,
2 Chapter 106, Section 4, as amended) is amended to read:

3 "29-11A-4. REGISTRATION OF SEX OFFENDERS-- INFORMATION
4 REQUIRED-- CRIMINAL PENALTY FOR NONCOMPLIANCE. --

5 A. A sex offender residing in this state shall
6 register with the county sheriff for the county in which the
7 sex offender resides.

8 B. A sex offender who is a current resident of New
9 Mexico shall register with the county sheriff no later than
10 [~~ten days~~] twenty-four hours after being released from the
11 custody of the corrections department or being placed on
12 probation or parole. A sex offender who changes his residence
13 to New Mexico shall register with the county sheriff no later
14 than [~~ten days~~] twenty-four hours after establishing residence
15 in this state. When a sex offender registers with the county
16 sheriff, he shall provide the following registration
17 information:

18 (1) his legal name and any other names or
19 aliases that he is using or has used;

20 (2) his date of birth;

21 (3) his social security number;

22 (4) [~~his current address~~] all residences he
23 owns, specifying which address is his primary residence;

24 (5) his motor vehicle registration information
25 with a description of all motor vehicles owned;

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1 [~~(5)~~] (6) his place of employment;
2 [~~(6)~~] (7) the sex offense for which he was
3 convicted; and
4 [~~(7)~~] (8) the date and place of his sex
5 offense conviction.

6 C. A sex offender who is a resident of another
7 state but who is employed in New Mexico or attending school in
8 New Mexico shall register with the county sheriff for the
9 county in which the sex offender is working or attending
10 school.

11 D. A sex offender who is a resident of another
12 state but who is employed in New Mexico, [~~or~~] attending school
13 in New Mexico or visiting New Mexico shall register with the
14 county sheriff no later than [~~ten days~~] twenty-four hours after
15 beginning work, [~~or~~] school or his visit. When the sex
16 offender registers with the county sheriff, he shall provide
17 the following registration information:

- 18 (1) his legal name and any other names or
- 19 aliases that he is using or has used;
- 20 (2) his date of birth;
- 21 (3) his social security number;
- 22 (4) his current address in his state of
- 23 residence and, if applicable, the address of his place of
- 24 lodging in New Mexico while he is working, [~~or~~] attending
- 25 school or visiting;

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1 (5) his motor vehicle registration information
2 and a description of all motor vehicles owned or that will be
3 used in New Mexico by him while he is working, attending school
4 or visiting;

5 [~~(5)~~] (6) his place of employment or the name
6 of the school he is attending;

7 [~~(6)~~] (7) the sex offense for which he was
8 convicted; and

9 [~~(7)~~] (8) the date and place of his sex
10 offense conviction.

11 E. When a sex offender registers with a county
12 sheriff, the sheriff shall obtain:

13 (1) a photograph of the sex offender, [~~and~~] a
14 complete set of the sex offender's fingerprints and a DNA
15 sample; and

16 (2) a description of any tattoos, scars or
17 other distinguishing features on the sex offender's body that
18 would assist in identifying the sex offender.

19 F. When a sex offender who is registered changes
20 his residence within the same county, the sex offender shall
21 send written notice of his change of address to the county
22 sheriff [~~no later than ten days after~~] prior to establishing
23 his new residence.

24 G. When a sex offender who is registered changes
25 his residence to a new county in New Mexico, the sex offender

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1 shall register with the county sheriff of the new county no
2 later than [~~ten days~~] twenty-four hours after establishing his
3 new residence. The sex offender shall also send written notice
4 of the change in residence to the county sheriff with whom he
5 last registered no later than [~~ten days~~] twenty-four hours
6 after establishing his new residence, including proof of the
7 new residence.

8 H. Following his initial registration pursuant to
9 the provisions of this section:

10 (1) a sex offender required to register
11 pursuant to the provisions of Subsection D of Section
12 29-11A-5 NMSA 1978 shall [~~annually~~] renew his registration with
13 the county sheriff [~~prior to December 31 of each subsequent~~
14 ~~calendar year for a period of twenty years~~] every ninety days
15 following his initial registration for the entirety of his
16 natural life; and

17 (2) a sex offender required to register
18 pursuant to the provisions of Subsection E of Section
19 29-11A-5 NMSA 1978 shall [~~annually~~] renew his registration with
20 the county sheriff [~~prior to December 31 of each subsequent~~
21 ~~calendar year~~] every ninety days following his initial
22 registration for a period of [~~ten~~] twenty years.

23 I. A sex offender who willfully fails to comply
24 with the registration requirements set forth in this section is
25 guilty of a fourth degree felony and shall be sentenced

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1 pursuant to the provisions of Section 31-18-15 NMSA 1978.

2 J. A sex offender who willfully provides false
3 information when complying with the registration requirements
4 set forth in this section is guilty of a fourth degree felony
5 and shall be sentenced pursuant to the provisions of Section
6 31-18-15 NMSA 1978. "

7 Section 4. Section 29-11A-4.1 NMSA 1978 (being Laws 2000,
8 Chapter 8, Section 6) is amended to read:

9 "29-11A-4.1. PROCEDURES WHEN A SEX OFFENDER MOVES FROM
10 NEW MEXICO TO ANOTHER STATE. --

11 A. If a sex offender intends to move from New
12 Mexico to another state, no later than thirty days prior to
13 moving to the other state, he shall:

14 (1) notify the county sheriff of the county he
15 resides in that he is moving to the other state; and

16 (2) provide the county sheriff with a written
17 notice that identifies the [~~state~~] new address of the residence
18 to which the sex offender is moving.

19 B. Within five days of receiving a sex offender's
20 written notice of intent to move to another state, the county
21 sheriff shall transmit that information to the department of
22 public safety. Within five days of receiving that information
23 from a county sheriff, the department shall contact the state
24 agency responsible for registering sex offenders in the state
25 to which the sex offender is moving. The department shall

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1 provide that state agency with registration information
2 regarding the sex offender. The department shall also obtain
3 information regarding registration requirements for sex
4 offenders in the state to which the sex offender is moving.
5 The department shall provide the sex offender with written
6 notification of the registration requirements in the state to
7 which the sex offender is moving.

8 C. A sex offender who willfully fails to comply
9 with the requirements set forth in this section is guilty of a
10 [~~misdeemeanor~~] fourth degree felony and shall be punished by
11 imprisonment for a definite term [~~less than~~] of one year or a
12 fine of not more than one thousand dollars (\$1,000) or both. "

13 Section 5. Section 29-11A-5 NMSA 1978 (being Laws 1995,
14 Chapter 106, Section 5, as amended) is amended to read:

15 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--
16 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION IN
17 THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

18 A. A county sheriff shall maintain a local registry
19 of sex offenders in his jurisdiction required to register
20 pursuant to the provisions of the Sex Offender Registration and
21 Notification Act.

22 B. The county sheriff shall forward registration
23 information obtained from sex offenders to the department of
24 public safety. The initial registration information and any
25 new registration information subsequently obtained from a sex

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1 offender shall be forwarded by the county sheriff no later than
2 ten working days after the information is obtained from a sex
3 offender. If the department of public safety receives
4 information regarding a sex offender from a governmental entity
5 other than a county sheriff, the department shall send that
6 information to the county sheriff for the county in which the
7 sex offender resides.

8 C. The department of public safety shall maintain a
9 central registry of sex offenders required to register pursuant
10 to the provisions of the Sex Offender Registration and
11 Notification Act. The department shall participate in the
12 national sex offender registry administered by the United
13 States department of justice. The department shall send
14 conviction information and fingerprints for all sex offenders
15 registered in New Mexico to the national sex offender registry
16 administered by the United States department of justice and to
17 the federal bureau of investigation.

18 D. The department of public safety shall retain
19 registration information regarding sex offenders convicted for
20 the following sex offenses for [~~a period of twenty years~~
21 ~~following the sex offender's conviction, release from prison or~~
22 ~~release from probation or parole, whichever occurs later]~~ the
23 entirety of the sex offender's natural life:

24 (1) criminal sexual penetration in the first
25 or second degree, as provided in Section 30-9-11 NMSA 1978;

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1 (2) criminal sexual contact of a minor in the
2 third or fourth degree, as provided in Section 30-9-13 NMSA
3 1978;

4 (3) sexual exploitation of children, as
5 provided in [~~Subsection A, B or C of~~] Section 30-6A-3 NMSA
6 1978;

7 (4) kidnapping, as provided in Section
8 30-4-1 NMSA 1978, when the victim is less than eighteen years
9 of age and the offender is not a parent of the victim; [~~or~~]

10 (5) aggravated indecent exposure, as provided
11 in Section 30-9-14.3 NMSA 1978;

12 (6) enticement of a child, as provided in
13 Section 30-9-1 NMSA 1978; or

14 [~~(5)~~] (7) attempt to commit any of the sex
15 offenses set forth in Paragraphs (1) through [~~(4)~~] (5) of this
16 subsection, as provided in Section 30-28-1 NMSA 1978.

17 E. The department of public safety shall retain
18 registration information regarding sex offenders convicted for
19 the following offenses for a period of ten years following the
20 sex offender's conviction, release from prison or release from
21 probation or parole, whichever occurs later:

22 (1) criminal sexual penetration in the third
23 or fourth degree, as provided in Section 30-9-11 NMSA 1978;

24 (2) criminal sexual contact in the fourth
25 degree, as provided in Section 30-9-12 NMSA 1978;

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1 (3) criminal sexual contact of a minor in the
2 fourth degree, as provided in Section 30-9-13 NMSA 1978;

3 (4) sexual exploitation of children by
4 prostitution, as provided in Section 30-6A-4 NMSA 1978;

5 (5) false imprisonment, as provided in Section
6 30-4-3 NMSA 1978, when the victim is less than eighteen years
7 of age and the offender is not a parent of the victim;

8 (6) solicitation to commit criminal sexual
9 contact of a minor in the third or fourth degree, as provided
10 in Sections 30-9-13 and 30-28-3 NMSA 1978; or

11 (7) attempt to commit any of the sex offenses
12 set forth in Paragraphs (1) through (5) of this subsection, as
13 provided in Section 30-28-1 NMSA 1978.

14 F. The department of public safety shall adopt
15 rules necessary to carry out the provisions of the Sex Offender
16 Registration and Notification Act. "

17 Section 6. Section 29-11A-5.1 NMSA 1978 (being Laws 1999,
18 Chapter 19, Section 8, as amended) is amended to read:

19 "29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING
20 CERTAIN REGISTERED SEX OFFENDERS--ACTIVE COMMUNITY
21 NOTIFICATION--INTERNET WEB SITE.--

22 A. If a sex offender is convicted of one of the
23 following sex offenses, the county sheriff shall forward
24 registration information obtained from the sex offender to the
25 district attorney for the judicial district in which the sex

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1 offender resides and, if the sex offender is a resident of a
2 municipality, the chief law enforcement officer for the
3 municipality in which the sex offender resides:

4 (1) criminal sexual penetration in the first,
5 [~~or~~] second or third degree, as provided in Section 30-9-11
6 NMSA 1978;

7 (2) criminal sexual contact of a minor in the
8 third or fourth degree, as provided in Section 30-9-13 NMSA
9 1978;

10 (3) sexual exploitation of children, as
11 provided in [~~Subsection A, B or C of~~] Section 30-6A-3 NMSA
12 1978;

13 (4) sexual exploitation of children by
14 prostitution, as provided in Section 30-6A-4 NMSA 1978; or

15 (5) attempt to commit any of the sex offenses
16 set forth in Paragraphs (1) through (4) of this subsection, as
17 provided in Section 30-28-1 NMSA 1978.

18 B. A person who wants to obtain registration
19 information regarding sex offenders described in Subsection A
20 of this section may request that information from the:

21 (1) county sheriff for the county in which the
22 sex offenders reside;

23 (2) chief law enforcement officer for the
24 municipality in which the sex offenders reside;

25 (3) district attorney for the judicial

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1 district in which the sex offenders reside; or

2 (4) secretary of public safety.

3 C. Upon receiving a request for registration
4 information regarding sex offenders described in Subsection A
5 of this section, the county sheriff, chief municipal law
6 enforcement officer, district attorney or secretary of public
7 safety shall provide that registration information, with the
8 exception of a sex offender's social security number, within a
9 reasonable period of time, and no later than seven days after
10 receiving the request.

11 D. Within seven days of receiving registration
12 information from a sex offender described in Subsection A of
13 this section, the county sheriff shall contact every licensed
14 daycare center, elementary school, middle school and high
15 school within a one-mile radius of the sex offender's residence
16 and provide them with the sex offender's registration
17 information, with the exception of the sex offender's social
18 security number.

19 E. The department of public safety [~~may~~] shall
20 establish and ~~manage~~ an internet web site that provides the
21 public with registration information regarding sex offenders
22 described in Subsection A of this section. The registration
23 information provided to the public pursuant to this subsection
24 shall not include a sex offender's social security number or a
25 sex offender's place of employment, unless the sex offender's

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1 employment requires him to have direct contact with children. "

2 Section 7. EFFECTIVE DATE. --The effective date of the
3 provisions of this act is July 1, 2003.

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